

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	No. 1:12cr92
	)	
NATHAN HARDEE,	)	
	)	
Defendant.	)	

ADDENDUM TO GOVERNMENT’S POSITION ON SENTENCING

The United States, in accordance with 18 U.S.C. § 3553(a) and the United States Sentencing Commission Guidelines Manual (Nov. 2011), respectfully submits this Addendum to the Government’s Position on Sentencing in the instant case and revises its initial position with respect to sentencing. The government believes, based on consideration of the information in the Defendant’s Position on Sentencing, that the Criminal History Category determined in the Presentence Investigation Report (“PSR”) over-represents the seriousness of the defendant’s criminal history, and that a downward departure in the defendant’s Criminal History Category is warranted pursuant to United States Sentencing Guidelines (“USSG”) § 4A1.3(b).

The government is in agreement with the defendant that the Probation Office’s calculation of the defendant’s criminal history is technically correct, and that the defendant’s correctly calculated Criminal History Category is V. However, the government and the defendant are also in agreement that it is appropriate to discount the defendant’s 2005 disorderly conduct conviction from his criminal history, for the reasons articulated in the Defendant’s

Position on Sentencing. If the disorderly conduct conviction is eliminated from the defendant's criminal history, the defendant would have a total of 9 criminal history points, resulting in a Criminal History Category of IV. *See* PSR Worksheet C. Should the Court adopt this calculation, the advisory range under the USSG would be 70-87 months.

It is the position of the government that the PSR correctly calculates the remainder of the defendant's criminal history. The United States therefore respectfully requests that the Court grant a downward departure in the defendant's Criminal History Category to IV, and impose a sentence at the low end of the recalculated guidelines range of 70-87 months.

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CERTIFICATE OF SERVICE

I certify that on the 24th day of May, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to Defendant's counsel:

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